

1 RENE L. VALLADARES
Federal Public Defender
2 Nevada State Bar No. 11479
MONIQUE KIRTLEY
3 Assistant Federal Public Defender
411 E. Bonneville, Ste. 250
4 Las Vegas, Nevada 89101
(702) 388-6577/Phone
5 (702) 388-6261/Fax
Monique_Kirtley@fd.org
6

7 Attorney for Miguel Lopez-Alvarez

8
9 **UNITED STATES DISTRICT COURT**
10 **DISTRICT OF NEVADA**

11 UNITED STATES OF AMERICA,
12 Plaintiff,
13 v.
14 MIGUEL LOPEZ-ALVAREZ,
15 Defendant.

Case No. 2:20-CR-00352-JCM-EJY

**STIPULATION TO CONTINUE
PRELIMINARY HEARING**
(Second Request)

16
17 IT IS HEREBY STIPULATED AND AGREED, by and between Nicholas A.
18 Trutanich, United States Attorney, and Kimberly M. Frayn, Assistant United States Attorney,
19 counsel for the United States of America, and Rene L. Valladares, Federal Public Defender,
20 and Monique Kirtley, Assistant Federal Public Defender, counsel for Miguel Lopez-Alvarez,
21 that the Preliminary Hearing currently scheduled on January 11, 2021 at 4:00 pm, be vacated
22 and continued to a date and time convenient to the Court, but no sooner than ninety (90) days.
23 This request requires that the Court extend two deadlines: (1) that a preliminary hearing be
24 conducted within 14 days of a detained defendant's initial appearance, see Fed. R. Crim. P.
25 5.1(c); and (2) that an information or indictment be filed within 30 days of a defendant's arrest,
26 see 18 U.S.C. § 3161(b).

1 This Stipulation is entered into for the following reasons:

2 1. Parties have entered negotiations and need the additional time to resolve this
3 matter. A change of plea hearing has been scheduled in 2:20-CR-00352-JCM-EJY for March
4 5, 2021, before Judge Mahan. If the plea is accepted by the court, the preliminary hearing will
5 not need to be held.

6 2. Defendant is incarcerated and does not object to a continuance.

7 3. The United States Attorney's Office has developed an early disposition
8 program for immigration cases, authorized by the Attorney General pursuant to the
9 PROTECT ACT of 2003, Pub. L. 108-21.

10 4. The early disposition program for immigration cases is designed to: (1) reduce
11 the number of hearings required in order to dispose of a criminal case; (2) avoid having more
12 cases added to the court's trial calendar, while still discharging the government's duty to
13 prosecute federal crimes; (3) reduce the amount of time between complaint and sentencing;
14 and (4) avoid adding significant time to the grand jury calendar to seek indictments in
15 immigration cases, which in turn reduces court costs.

16 5. The government has made a plea offer in this case that requires defendant to
17 waive specific rights and hearings in exchange for "fast-track" downward departure under
18 USSG § 5K3.1. This offer will be withdrawn if it is not timely accepted before this matter is
19 indicted and before a preliminary hearing is held.

20 6. Under Federal Rule of Criminal Procedure 5.1(c), the Court "must hold the
21 preliminary hearing within a reasonable time, but no later than 14 days after the initial
22 appearance if the defendant is in custody"

23 7. However, under Rule 5.1(d), "[w]ith the defendant's consent and upon a
24 showing of good cause—taking into account the public interest in the prompt disposition of
25 criminal cases—a magistrate judge may extend the time limits in Rule 5.1(c) one or more
26 times"

1 8. Furthermore, under the Speedy Trial Act, 18 U.S.C. § 3161(b), “[a]ny
2 information or indictment charging an individual with the commission of an offense shall be
3 filed within thirty days from the date on which such individual was arrested or served with a
4 summons in connection with such charges.”

5 9. If the change of plea is not accepted by the court on March 5, 2021, the
6 defendant will need additional time to review the discovery, investigate potential defenses,
7 and prepare for trial. Accordingly, the parties jointly request that the Court schedule the
8 preliminary hearing in this case no sooner than 90 days from today’s date.

9 10. Defendant is in custody and agrees to the extension of the 14-day deadline
10 imposed by Rule 5.1(c) and waives any right to remedies under Rule 5.1(c) or 18 U.S.C. §
11 3161(b), provided that the information or indictment is filed on or before the date ordered
12 pursuant to this stipulation.

13 11. This extension supports the public interest in the prompt disposition of
14 criminal cases by permitting defendant to consider entering into a plea agreement under the
15 United States Attorney’s Office’s fast-track program for § 1326 defendants.

16 12. Accordingly, the additional time requested by this stipulation is allowed under
17 Federal Rule of Criminal Procedure 5.1(d).

18 13. In addition, the parties stipulate and agree that the time between today and the
19 scheduled preliminary hearing is excludable in computing the time within which the
20 defendant must be indicted and the trial herein must commence pursuant to the Speedy Trial
21 Act, 18 U.S.C. § 3161(b) and (h)(7)(A), considering the factors under 18 U.S.C. §
22 3161(h)(7)(B)(i) and (iv). the preliminary hearing.

23 14. Additionally, denial of this request for continuance could result in a
24 miscarriage of justice.
25
26

1 This is the second request for continuance filed herein.

2 DATED this 8th day of January, 2021.

3
4 RENE L. VALLADARES
Federal Public Defender

NICHOLAS A. TRUTANICH
United States Attorney

5
6 */s/ Monique Kirtley*
7 By _____
8 MONIQUE KIRTLEY
Assistant Federal Public Defender

/s/ Kimberly M. Frayn
By _____
KIMBERLY M. FRAYN
Assistant United States Attorney

1 UNITED STATES DISTRICT COURT
2 DISTRICT OF NEVADA

3 UNITED STATES OF AMERICA,

4 Plaintiff,

5 v.

6 MIGUEL LOPEZ-ALVAREZ,

7 Defendant.
8

Case No. 2:20-CR-00352-JCM-EJY

ORDER

9
10 Based on the Stipulation of counsel and good cause appearing,

11 IT IS THEREFORE ORDERED that the Preliminary Hearing currently scheduled on
12 January 11, 2021 at the hour of 4:00 p.m., be vacated and continued to March 15, 2021, at
13 4:00 p.m., in Courtroom 3C.

14 DATED this 8th day of January, 2021.

15
16 
17 UNITED STATES MAGISTRATE JUDGE
18
19
20
21
22
23
24
25
26